APPENDIX A: COMMENTS AND RESPONSES

Comments from the Public Workshop held April 14, 2010 and those received in writing are addressed below.

APPLICABILITY

1. Comment: Requirements under PR 1420.1 should only apply to large lead-acid battery recycling facilities if they discharge emissions that cause ambient concentrations of lead to exceed 0.15 µg/m^3 at or beyond the facility property line.

Response: The federal standard was reduced tenfold from a concentration of 1.5 µg/m^3 to 0.15 µg/m^3. Achieving the new standard will be challenging. Based on experience with the Rule 1420 compliance plan approach, the AQMD staff decided that it is more health protective to establish base requirements in PR 1420.1. PR 1420.1 takes a more proactive approach to establish key requirements in the proposed rule that address point source and fugitive emissions. Many of these requirements are currently being implemented at one or both of the affected facilities. The approach that the commenter is suggesting may result in delays in implementing additional measures at the facility as these would likely be developed individually with the facility through a compliance plan that would need to be developed by the facility and reviewed and approved by the AQMD staff. In addition, the approach under PR 1420.1 provides certainty to the affected facilities of the requirements since they are specified upfront as opposed to later through a compliance plan.

2. Comment: Why was the processing of 50,000 tons of lead per year chosen as the applicability criteria for PR 1420.1? The staff report indicates that the threshold was selected because 50,000 tons per year is approximately 50 percent of the lowest "current facility" throughput limit; however, there is no rationale for why this constitutes a "large" recycling facility.

Response: Lead-acid battery recycling facilities with large throughputs are the largest lead emission sources in the Basin. The facilities currently process an average of at least 300 tons of lead a day each. Ambient air concentrations of lead from these facilities were, in large part, the reason CARB recommended a non-attainment designation for Los Angeles County with the 2008 NAAQS for lead. The description of these facilities as "large" is solely to differentiate them from smaller facilities that are below the applicability threshold of the rule and are not expected to exceed the new NAAQS standard. This rationale is further explained on page 2-2.

3. Comment: The applicability threshold limit should be lowered to include medium-sized facilities.

Response: Other lead sources will be addressed in a future amendment to Rule 1420 – Emissions Standard for Lead. The AQMD staff started with large lead-acid battery recyclers because they represent the largest stationary lead emission sources in the district. A number of the requirements under Proposed Rule 1420.1 are specific to lead-acid battery recycling. There are requirements, however, that will be applicable to other lead sources that will likely be included in amendments to Rule 1420.

4. Comment: The applicability is worded awkwardly and suggests that a facility is only subject to the rule if it has processed more than 50,000 tons of lead a year in any of the five calendar years prior to the date of adoption, AND annually thereafter. Such wording would exempt any new facility coming on line after the date of adoption since it would not satisfy both of the conditions linked by the "and."

Response: Staff agrees with the commenter and rule language has been revised to say "or" rather than "and."

5. Comment: Once a facility becomes subject to the rule, is it always subject?

Response: The intent of the rule is to include all large lead-acid battery recycling facilities that have ever processed or will ever process 50,000 tons of lead-containing material per year, to always be subject to the rule. Rule language has been revised to clearly convey this. The AQMD staff believes that this important to ensure that a facility does not circumvent the rule based on the applicability.

6. Comment: Is the term "annually thereafter" to be assessed on a calendar year basis?

Response: The rule states that "calendar years" are to be used when reviewing years prior to the adoption date for determining applicability. For consistency, calendar years will also be used to determine applicability after the adoption date of the rule.

AMBIENT AIR QUALITY CONCENTRATION AND MONITORING

7. Comment: Paragraph (d)(2) gives the Executive Officer sole authority to judge the evidence that might be provided by a facility to demonstrate that measured ambient air quality concentrations are not the result of that facility's emissions. The last line of the proposed language should be reworded by striking the phrase, "as approved by the Executive Officer."

Response: The rule language has been modified and now reads "The ambient air concentrations of lead shall be determined by monitors pursuant to subdivision (j) or at any District-installed monitor." Subdivision (j) contains all monitoring and sampling requirements and the referenced provision has been removed.

8. Comment: The deadline to achieve the ambient concentration of 0.15 µg/m^3 by January 1, 2012 is not consistent with SCAQMD's stated intent to achieve attainment with the federal standard based on U.S. EPA timeframes. The deadline for final designations for initial non-attainment areas for areas with existing monitoring networks is no later than October 2010 with an effective date of January 1, 2011. The earliest final attainment date would then be five years later, or January 1, 2016. We suggest the compliance date for the ambient air concentration standard of the rule should be "no less than two years after the effective date of any final designation of non-attainment area." Such a compliance date would allow the collection of three years of compliant data necessary for attainment demonstration as required by U.S. EPA.

Response: We agree with the commenter's assessment for determining deadlines and timeframes regarding attainment with the NAAQS. However, staff believes that allotting only three years to collect compliant data does not allow any margin for additional attempts to demonstrate attainment in the event of an exceedance of the standard. In addition, staff believes that action to protect public health should be taken as soon as practicable, and that the requirements of the proposed rule to reduce exposure to lead emissions can be implemented by January 1, 2012.

9. Comment: The requirement for ambient air monitoring to begin by January 1, 2011 does not consider how long it might take to arrive at a selection of sampling sites "approved by the Executive Officer" based on "Executive Officer-approved air dispersion modeling." Instead, the proposed rule should allow 120 days after approval of the sampling site(s), with more time allowed if property access issues arise.

Response: Both facilities currently operate an approved ambient air monitoring network required by Rule 1420 with at least four monitors. Both facilities currently meet the air monitoring network requirements under PR 1420.1. No changes to the current networks are anticipated. Therefore, additional time is not needed.

10. Comment: Determining compliance with the ambient air concentration standard based on concentrations "at or beyond the property line" is inappropriate. The placement of monitors "at or beyond the property line of the facility" given the proposed definition of "property line" could include locations as much as 25 feet inside the facility's property boundary. Such locations inside the facility do not constitute "ambient air" monitoring according to 40 CFR 58 Appendix E.

and

The definition of AMBIENT AIR as outdoor air is vague and ambiguous. The definition should be considered to be outside air unaffected by the local

environment either upwind of an area in question, or a significantly diluted mixed environment downwind of an area in question.

Response: The definition of PROPERTY LINE has been removed from the rule and a definition of AMBIENT AIR has been added. For the purposes of this rule, ambient air will refer to any outdoor air which is similar to the California Air Resources Board definition rather than the federal definition. It should also be noted that the proposed rule and the 2008 NAAQS for lead requires compliance with ambient air lead standards based on facility emissions that *contribute* to exceedances, with facility emissions not having to be the sole cause.

11. Comment: The SCAQMD does not have the authority to impose the proposed definition of AMBIENT AIR which is counter to that established by U.S. EPA in 40 CFR 50.1(e). We do not see where this overly expansive revised definition of ambient air would come into play.

Response: The concern is that ambient air monitors located at or beyond the facility property line used to measure maximum ground level concentrations have historically been placed slightly within the facility property line at the facility's request due to issues such as vandalism, theft, or property rights. In the past, the AQMD staff has approved the alternative siting requests. As a result, the subject monitors do not technically qualify as measuring "ambient air" under the federal definition, as they do not measure air that is accessed by the public. For these reasons, staff has chosen the broader definition of "ambient air" as defined by CARB which accommodates these "fence line" monitors that are located slightly within the property line.

12. Comment: The sampling frequency associated with the federal standard is every sixth day, and not every three days as proposed in subdivision (j). There is no rationale for selecting this sampling frequency in the preliminary draft staff report. U.S. EPA thoroughly considered a variety of sampling frequencies in the promulgation of the federal standard and consciously selected every sixth day sampling.

Response: In 1970, CARB set the California Ambient Air Quality Standard for lead at 1.5 $\mu g/m^3$ for a 30-day average. Subsequently in 1978, U.S. EPA established the National Ambient Air Quality Standard at 1.5 $\mu g/m^3$ averaged over a calendar quarter, with collection of samples once every six days. Although Rule 1420 only required facilities to sample once every six days, they are currently sampling once every three days and in some cases more frequently. PR 1420.1 maintains the same averaging period as Rule 1420, but proposes to increase the sampling requirement to once every three days. Based on more recent sampling at affected facilities, the AQMD staff believes that sample collections once every three days provides a good representation of lead emissions.

13. Comment: Paragraph (j)(5) is ambiguous and vague in terms of how many wind speed and direction monitors would be required at a given facility. This section should be revised to clarify the meaning of the word "system" such that it is clear that a single meteorological data system to record wind speed is required rather than one at each ambient monitor.

Response: Staff agrees and has modified the rule language to reflect the commenter's suggestion. Please refer to the proposed rule.

14. Comment: We request that a provision be added to the ambient air monitoring section to explicitly provide a mechanism for the consideration and exclusion of ambient monitoring data influenced by an "exceptional event" so that additional measures and/or enforcement are not unnecessarily triggered. The provision should be modeled after the procedures set forth in 40 CFR 50.14 with the incorporation of the definition of "exceptional event" as presented in 50 CFR 50(j).

Response: "Exceptional event" as referenced in 50 CFR 50(j) applies to data submitted to U.S. EPA to demonstrate attainment with any NAAQS. The purpose is to exclude emissions caused by uncontrollable events not expected to recur at a given location, such as fires, explosions, or accidents so that an area's attainment status is not affected.

15. Comment: There is no justification provided for using an averaging form of 30 consecutive days for compliance with the ambient air concentration standard. The federal standard is based on a three-month averaging form. Accordingly, given AQMD's stated purpose in promulgating PR 1420.1, compliance with an ambient air concentration standard must be established based on the same averaging form.

Response: The Health and Safety Code allows local governments, such as AQMD, to require more stringent standards than those set forth federally or by the state if deemed necessary. Staff believes a more stringent averaging form provides for earlier detection of high ambient air lead concentrations and ample time that is necessary to implement measures that would reduce lead concentrations before a three-month average exceeding the new standard results.

TOTAL ENCLOSURES

16. Comment: The definition of TOTAL ENCLOSURE is from the federal hazardous waste containment building regulations. It requires containment buildings to maintain the primary barrier free of significant cracks, gaps, corrosion or other deterioration that could cause hazardous waste to be released from the primary barrier. Since the total enclosures required in PR 1420.1 are utilized for areas that do not store hazardous waste (such as a battery wrecker or

refinery area or a furnace), this definition places an unnecessary requirement on a smelter.

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References to 40 CFR 264.1101 should be added to the TOTAL ENCLOSURE definition to ensure that these requirements apply to the permitted hazardous waste facilities that are considered large lead acid battery recycling facilities.

Response: The originally proposed definition of TOTAL ENCLOSURE has been changed to limit it to only those requirements that affect air quality and the applicable requirements are spelled out in the definition. In addition, the definition no longer contains references to the Code of Federal Regulations in order to avoid confusion.

17. Comment: Consider exempting enclosures that are existing or under construction at the time of rule adoption from the strict definition of TOTAL ENCLOSURE for facilities meeting the fenceline standard at some early date.

Response: The AQMD staff believes that total enclosure of the specified areas is necessary to ensure that fugitive lead dust from such operations is properly contained and well controlled. Exempting existing enclosures or those that are under construction would relieve these structures from meeting the requirements for total enclosures. The proposed rule provides sufficient time for affected facilities to build new or upgrade existing enclosures to ensure they meet the total enclosure requirements.

18. Comment: The requirement for total enclosures of any operation deemed necessary by the Executive Officer extends too much authority without any requirement to demonstrate the necessity for the enclosure.

Response: This language has been omitted from the rule. However, it should be noted that Compliance Plan requirements may contain additional measures for total enclosures of additional areas if they are determined to be a significant source of lead emissions or the cause of an exceedance of the ambient lead standard.

19. Comment: The requirement for specified areas to be enclosed within total enclosures by January 1, 2011 does not account for the possibility that factors beyond the facility's control including, but not limited to, delays in processing of Permits to Construct applications by the AQMD staff in a timely manner, could prevent a facility from meeting the enclosure deadline despite its best efforts.

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The requirement for total enclosure installations to be completed within 180 days of receiving Permits to Construct or by July 1, 2011, whichever is EARLIER should be reworded to LATER. Otherwise facilities might not be given adequate construction time in the event Permits to Construct are issued too close to the July 1, 2011 deadline. Facilities have a reasonable expectation of reciprocal response, acknowledgement, and approval times. It is expected that if the District requests a response within a given timeframe, the facility has the expectation that the District shall similarly respond within the same timeframe.

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Approvals for extensions should be based on reasonableness rather than discretionary.

Response: The timing for this requirement, along with the timing for lead control devices, has been changed in response to comments received. The deadline has been extended by six months and now says that enclosures are to be installed and in operation no later than July 1, 2011. In order to account for potential delays for permit approvals, building department permits, and construction, an extension of the compliance date may be approved by the Executive Officer if the facility can demonstrate that it is unable to meet the deadline due to reasons beyond the facility's control. The request must be made prior to the compliance deadline and all complete permit applications must have been submitted in a timely manner according to due dates specified in the rule.

The dates specified under paragraph (d)(3) are based on estimates of how long that it will take to permit, build, and begin operation of equipment to comply with the provisions. It is the AQMD staff's understanding that both facilities have already begun the process to install total enclosures and have primary controls on all of point sources. If the facility is required to install secondary controls as required under subdivision (f), it is the AQMD staff's understanding that this would be the only additional requirement. The AQMD staff believes that the dates and times for compliance provide sufficient time for affected facilities to comply.

20. Comment: In subparagraph (d)(3)(B), for total enclosures, can construction begin prior to receipt of a Permit to Construct if that is what's necessary to meet the July 1, 2011 deadline?

Response: Construction can begin on anything that does not require a Permit to Construct, however, if a permit is required, the construction cannot begin until the permit is approved. Subparagraph (d)(3)(C) provides for an extension of the deadline if the facility can demonstrate that complete applications were filed within 30 days of the date of adoption of PR 1420.1 and that it cannot meet the deadline due to reasons beyond its control.

21. Comment: The rule specifies that each total enclosure be "vented to an emission collection system that ducts the entire gas stream to a lead control device..." The term "entire" is unnecessarily absolute and subject to potential misinterpretation. A more appropriate word would be "collected."

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The word "collected" is not necessary because total enclosures are required to be maintained under negative air pressure and are free from leaks or cracks.

Response: Staff agrees that the word collected is not necessary and the language reads, "ducts the entire gas stream."

22. Comment: A requirement for both a negative pressure and an in-draft velocity to be measured at each total enclosure is redundant. Compliance with either criterion would ensure capture of potential fugitive emissions.

Response: The in-draft velocity requirement helps ensure that sufficient negative pressure is maintained at openings that do not have an associated differential pressure monitor. The requirement that periodic in-draft velocity measurements and recordkeeping have has been removed, however, maintaining the in-draft velocity at a minimum of 300 feet per minute is required and may be checked at any time to determine compliance.

23. Comment: No rationale or justification is provided for the selection of an in-draft velocity of at least 300 feet per minute.

Response: The in-draft velocity requirement of 300 feet per minute was derived from hood face velocity requirements for process fugitive emissions set forth in the NESHAP for Secondary Lead Smelters (40 CFR Part 63.544 (b)(1)). This requirement is currently being met at one of the PR 1420.1 affected facilities, as it was established as a condition for the facility through an order for abatement.

24. Comment: The "monitoring system" is required to be maintained at a negative pressure of at least 0.02 mm of Hg, when it is actually the "enclosure" that must be maintained at this negative pressure.

Response: Language has been changed as suggested by the commenter.

25. Comment: No justification is given as to why the accuracy of the pressure drop monitor must be to the nearest 0.001 mm Hg.

Response: The proposed rule requires that pressure differential monitors are digital. Readings to the nearest 0.001 mm Hg allows more accurate readings so that compliance with the 0.02 mm Hg standard can be determined.

26. Comment: The manufacturer's calibration requirement for differential pressure typically specifies calibration on an annual basis, not every six months.

Response: The language has been changed to require calibration every 12 months or more often if recommended by the manufacturer.

27. Comment: Fitting each differential pressure monitoring system with a continuous chart recorder is unnecessary, redundant, wastes paper, and generates a recordkeeping hardship. Once established via periodic logging of pressure monitor data that the enclosure is fitted with ventilation sufficient to maintain negative pressure, the ongoing imposition of that negative pressure is assured as long as the ventilation fans keep running.

and

The requirement for continuous differential pressure monitoring is duplicative, beyond the normal checks and balances theory of regulation. Differential pressure should be a weekly or monthly performance criteria rather than continuous monitoring. Differential building pressure can be inferred from the operation of baghouse flowrate or by in-draft velocity measurements.

Response: An ongoing imposition of a fixed negative pressure based solely on ventilation fans running or baghouse flowrates being maintained as normal does not account for changes in negative pressure due to in-draft changes resulting from opening of doors or windows which can be demonstrated by the chart recorder and recordkeeping. The proposed rule also allows for the use of an electronic recorder as an alternative to the chart recorder eliminating the concern for generating paper waste.

28. Comment: The District requests copies, provided at the expense of the facility, of any software necessary to review the output of the digital differential pressure monitoring system rather than requesting the output data file in a standard ASCII data format. This may be an issue of ethics and conflict of interest.

Response: The intent of the provision is to only provide software needed to access the recorded data that is not readily available to the Executive Officer. Rule language has been modified to reflect this.

29. Comment: Requiring backup power for differential pressure monitors is an unnecessary measure that will generate no meaningful additional information. If the facility loses electrical power, the fans imposing the negative pressure on the

total enclosure will not operate and the differential pressure will drop to zero requiring no further verification via monitoring.

Response: Staff agrees with the commenter if the assumption was that all power disruptions to a differential pressure monitor were a result of a complete facility power outage. However, backup power on the differential pressure monitor also accounts for instances where continuous power or connectivity problems affect only the differential pressure monitor. During these instances, it is necessary for monitoring to continue so that the negative pressure is measured and recorded.

30. Comment: The proposed definition of WINDWARD WALL is ambiguous and unclear as to what data would inform selection of a "most prevailing" wind direction. The definition also does not sufficiently describe how to select the referenced "most impacted" wall.

Response: The definition of WINDWARD WALL has been changed to mean the "exterior wall of a total enclosure which is most impacted by the wind in its most prevailing direction determined by a wind rose using data required under paragraph (j)(5) of this rule, or other data approved by the Executive Officer."

31. Comment: There is no justification given for the need to have three separate pressure drop monitors on buildings that are greater than 10,000 square feet in surface area, nor for the 10,000 square feet criteria. When determining the number of differential pressure monitoring systems for total enclosures, does the 10,000 square feet refer to the floor area of the building, or the entire surface area of the structure itself.

Response: The 10,000 square feet refers to the floor area of the building and rule language has been modified for clarification. The requirement for three monitors is intended to provide assurance that the negative air pressure requirements for total enclosures are being met. This requirement is currently being met at one of the PR 1420.1 affected facilities, as it was established as a condition for the facility through an order for abatement. The requirement allows smaller total enclosures to install only one monitor rather than three.

32. Comment: Flexibility should be provided to allow pressure drop monitoring to be conducted in units of inches of water in lieu of mm Hg on an equivalency basis.

Response: Language has been added to provide both alternative measurements as suggested by the commenter.

LEAD POINT SOURCE EMISSIONS

33. Comment: Control efficiencies for lead control devices venting a total enclosure should be determined by a manufacturer's guarantee of particulate reduction. Demonstrating 99% or higher efficiency through inlet/outlet testing will be very difficult because of the small amount of particulate on either side of the control device and because the test methods are not consistently accurate enough to achieve a plus or minus 1% result. A better approach would be to establish an emission rate or standard similar to the NESHAP for Secondary Lead Smelting.

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The requirement for lead control devices to meet a control efficiency of 99 percent or more for either lead or particulate matter is inappropriate in general because control device efficiency is an improper standard to select for the fabric filter control technologies typically employed at these facilities. Further, there is no justification for departing from the 98 percent control efficiency for lead as required in Rule 1420 without any discussion or supporting rationale.

Response: The control efficiency requirement for lead control devices has been replaced with a mass emission requirement which better characterizes the emissions from the stacks. The total lead emission rate from all lead point source control devices source tested pursuant to subdivision (k) may not exceed 0.045 pounds of lead per hour and no single device shall exceed 0.010 pounds of lead per hour. To address efficacy of controls, lead point source control devices using dry filter media are required to be fitted with filters rated by the manufacturer to meet 99.97 percent control for 0.3 micron particles and lead control devices using bags are required to use bags made of polytetrafluoroethylene membrane material or any other material that is equally or more effective and approved by the Executive Officer.

34. Comment: Our facility test results for lead emissions from three baghouses controlling process fugitive and fugitive dust emissions range between 0.00339 to 0.00499 lb/hr, and also have difficulty in achieving 99 percent control efficiency under testing. The outlet concentrations for baghouses are all substantially lower than the federal MACT standard level of 2 mg/dscm. For PR 1420.1 to imply that they are not, unless they can achieve some contrived target of 99 percent control efficiency is absurd.

and

U.S. EPA gave direct consideration to a mass emission rate form of that standard when promulgating the NESHAP for Secondary Lead and specifically rejected it [59 FR 110, June 9, 1994, pg. 29766 and 29767). An outlet concentration form of the standard is the appropriate form.

and

We support the addition of a provision that allows reduced source testing frequency of lead control devices for exemplary performance. However, we disagree fundamentally with the mass emission rate form of the emission standards of the rule. The alternative compliance form should be a concentration level of 1 mg/dscm (one half the federal NESHAP level). Accordingly, reduced testing frequency should be afforded to any source with exhaust lead concentrations less than 0.5 mg/dscm.

Response: As stated above, the 99 percent control efficiency requirement has been removed from the rule. U.S. EPA explicitly stated in the rule summary document [pg. 2-13] that the goal of the NESHAP for Secondary Lead Smelting was not to achieve compliance with the lead NAAQS. Rather, the intent of the standards was to reduce HAP emissions from secondary lead smelters to the maximum degree achievable through the application of maximum achievable control technology (MACT). U.S. EPA rejected the emission standard format for process sources because they believed it could not account for differences in actual emission rates between different size smelting when trying to determine a MACT level [59 FR 110, June 9, 1994, pg. 29766 and 29767].

The intent of PR 1420.1 is to achieve attainment with the revised NAAQS for lead and not to determine a MACT level for the industry. An emission rate in lbs/hr is appropriate for PR 1420.1 because the total point source emissions and fugitive emissions from the facility affect the fence line concentration and, as evidenced by historical fenceline monitoring data, must be reduced significantly to meet the 2008 NAAQS. Reduced source testing frequency is allowed under subdivision (k) if the results of the most recent source test for a lead point source are 0.0025 pounds per hour or less in keeping with the pounds per hour standards.

35. Comment: It is unclear what AQMD means by having the mass rate emission standard apply to "one lead point source, or more than one lead point source if combined." Does this mean, for example, that a facility could test two or more lead point sources and combine those test results for comparison with the 0.0020 lb/hr limit, even if those lead point source exhausts are not physically combined into a common stack?

Response: All lead point sources that vent to the atmosphere must comply with the hourly maximum limit, whether they are venting a single process or multiple processes with emissions manifolded together. The 0.0020 lb/hr emission standard has been changed as discussed in the response to Comment #33.

36. Comment: The requirement for installation of lead control devices by January 1, 2011 does not account for the possibility that factors beyond the facility's control

including, but not limited to, delays in processing of applications for Permits to Construct by SCAQMD in a timely manner, could prevent a facility from meeting the compliance date despite its best efforts.

Response: The timing for this requirement, along with the timing for total enclosures, has been changed in response to comments received. The deadline has been extended by six months and now says that lead control devices are to be installed and in operation no later than July 1, 2011. In order to account for delays for permit approvals, building department permits, and construction, an extension of the compliance date may be approved by the Executive Officer if the facility can demonstrate that it is unable to meet the deadline due to reasons beyond the facility's control. The request must be made prior to the compliance deadline and all complete permit applications must have been submitted in a timely manner according to due dates specified in the rule.

37. Comment: We would like to see an additional requirement capping annual facility-wide point source lead emissions at 25 pounds per year based on the most recent approved source tests and maximum permitted production.

Response: The AQMD staff does not object if a facility elects to self impose an emission cap on their point sources of 25 pounds per year. The AQMD staff is concerned that imposing an emissions cap at 25 pounds per year on all lead-acid batter recyclers may require installation of pollution controls beyond what is needed to achieve the PR 1420.1 lead standard of 0.15 ug/m^3. The measurement for the 25 pounds per year would be based on an annual or possibly biennial source test that is a "snap shot" of point source emissions. The AQMD staff believes that a better and more appropriate use of the source test data is to ensure the control equipment is properly operating and is achieving emission rates sufficient to achieve the ambient air quality standard. The AQMD staff believes that sampling the ambient air more than 120 times per year is a more appropriate test to ensure that facility-wide emissions of point and fugitive emissions do not exceed the PR 1420.1 lead standard of 0.15 ug/m^3.

38. Comment: It is unclear how the maximum lead emission rate limit of 0.010 lb/hr for any lead point source was derived.

Response: Staff conducted air dispersion modeling of each individual stack for both facilities and results showed that out of approximately twenty lead point sources modeled, a stack emitting more than 0.013 lb/hr would exceed the federal 0.15 $\mu g/m^3$ standard at the fence line for a given lead point source at one facility. Consequently, a maximum emission rate of 0.010 lb/hr for any individual lead point source was selected to adequately provide a protective limit for exposure to lead emissions and the ambient standard.

39. Comment: The AQMD is specifying filter media and bags beyond the usual Best Available Control Technology (BACT). This could be a possible ethics and conflict of interest issue.

Response: The AQMD is not precluded from requiring available controls that are more effective than what is considered as BACT. Further, existing facilities are currently utilizing both forms of filtering media in some or most of their existing lead control devices.

COMPLIANCE PLAN

40. Comment: There is no justification for the selection of the 0.12 µg/m^3 trigger for a Compliance Plan.

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Use of a 0.12 µg/m^3 trigger will likely cause submittal of a Compliance Plan in situations where an exceedance of the 0.15 µg/m^3 standard will never occur.

Response: Proposed Rule 1420.1 takes a proactive approach because of the toxicity and persistent nature of lead. The trigger of 0.12 µg/m^3 represents 80% of the 0.15 µg/m^3 standard. The AQMD staff selected 80% of the standard as a trigger to submit the compliance plan because it close enough to the standard to warrant concern that the 0.15 µg/m^3 lead concentration standard may be exceeded. This approach provides more assurance that if there is an exceedance, measures will be identified and implementation can begin immediately. It should be noted, that implementation of the Compliance Plan is required only if the facility exceeds the 0.15 µg/m^3 lead concentration standard.

41. Comment: The imposition of the Compliance Plan trigger level on the basis of concentrations "at or beyond the property line" is inappropriate given the proposed definition of PROPERTY LINE, as concentrations measured within 25 feet of a facility's boundary is not "ambient."

Response: The definition of PROPERTY LINE has been removed and a definition of AMBIENT AIR has been added as discussed in the response to Comment #10.

42. Comment: Since the requirement for a Compliance Plan is triggered by emissions from the lead-acid battery recycler, the concentration from the upwind monitor for the facility should be deducted from the downwind monitor(s) when determining whether the 0.12 µg/m^3 threshold is exceeded.

Response: The ambient air lead concentration of the rule is based on facility emissions that contribute to exceedances, with facility emissions not having to be the sole cause. See response to Comment #10.

43. Comment: Use of the term "exceedance" for a monthly average between 0.12 µg/m^3 and 0.15 µg/m^3 is misleading.

Response: The language has been clarified to state that "...emissions which contribute to ambient air concentrations of lead that exceed 0.12 µg/m^3 averaged over any 30 consecutive days..." is only a trigger to submit the Compliance Plan. If the facility exceeds 0.15 µg/m^3 after July 1, 2011 or before January 1, 2012, it is not a violation of the proposed rule, however, the facility would at that time be required to begin implementation of the approved Compliance Plan. If the facility exceeds the 0.15 µg/m^3 lead concentration standard on or after January 1, 2012, that would constitute a violation of the ambient lead standard and the facility would be required to begin implementation of the approved Compliance Plan.

44. Comment: A Compliance Plan should not be required where an exceedance of the 0.15 µg/m^3 standard has not occurred. If an exceedance occurs, the facility needs to obtain a variance from the District's Hearing Board which will require Increments of Progress, or in other words, a Compliance Plan.

Response: Although submittal of a Compliance Plan will be required when the facility exceeds a concentration of 0.12 µg/m^3, the implementation of the plan will only be required if the facility actually exceeds the 0.15 µg/m^3 concentration. Staff believes that it is necessary to have a plan prepared in advance so that immediate implementation can occur.

45. Comment: There is no justification provided for using a 30-day averaging form for multiple elements of the Compliance Plan (i.e., trigger for submittal, implementation of additional lead reduction measures). The federal standard is based on a three-month averaging form. Accordingly, given AQMD's stated purpose in promulgating PR 1420.1, targets for triggering a Compliance Plan must be established based on the same averaging form.

Response: Using the 30-day averaging form is consistent with the ambient lead concentration averaging form of Rule 1420. The response to Comment #15 provides the rationale behind use of the 30-day form.

46. Comment: The Compliance Plan fee structure in subparagraph (d)(3)(C) potentially exposes a facility to repetitive payment solely at the discretion of the Executive Officer who may continually disapprove a submitted plan, resulting in the collection of additional fees each time.

and

Paragraph (g)(3) seems to imply that a denial of the originally submitted plan cannot be appealed. Please clarify that this is not the case.

Response: The language in the proposed rule has been changed so that disapproval occurs only once. At the disapproval stage, appeal is not necessary or appropriate because the AQMD staff is still working with the applicant. If the resubmitted plan does not adequately address the deficiencies identified in the disapproval, the plan will be denied. The denial may be appealed through the Hearing Board under Rule 216 – Appeals. The Compliance Plan fees are consistent with fees in set forth in District Rule 306 – Plan Fees.

47. Comment: The revised language has reduced the deadline for Compliance Plan submittal from 30 days to 10 days. This is totally inappropriate and unworkable as a timeframe for the production and submittal of a meaningful and thoughtful plan. AQMD is mandating (Expedited Review Processing) a fee (tax) schedule above that normally associated, which have not been subject public review or approvals. Fees assessed per schedule in Rule 306, where expedited review scheduling is mandated by timing requirement should be waived.

Response: Staff agrees with the commenter and the submittal time has been changed back to the original language of 30 days. This provides sufficient time for preparation of the plan without the need for expedited processing fees.

HOUSEKEEPING REQUIREMENTS

48. Comment: The definition of FUGITIVE LEAD-DUST needs to include something describing particle size or its capability to become airborne. The current definition could be misconstrued to mean any solid particle regardless of its capability to become airborne is FUGITIVE LEAD DUST;

and

The definition of FUGITIVE LEAD-DUST is vague, misleading, and not consistent with the Federal definition of "any particulate matter, containing lead, which becomes airborne and mixes with ambient air in quantifiable detectable quantities."

Response: Staff agrees with the commenter and rule language has been revised to clarify that the particle size is capable of becoming airborne. Staff has not, however, included the phrasing that the particulate matter containing lead have to become airborne and mix with ambient air. Defining it as such would allow particulate matter containing lead that has not yet become airborne to not constitute as fugitive lead-dust, and not trigger requirements of the proposed rule to address its prevention and clean-up.

49. Comment: Rather than effective immediately, facilities should be given time to establish and implement procedures to comply with housekeeping requirements, such as maintenance of a vehicle wet washing area, following a reasonable period of time, such as 60 days, after the date of rule adoption.

Response: Staff agrees with the commenter and has added that the housekeeping activities become effective no later than 30 days following rule adoption. The requirement to maintain a vehicle wet washing area has been removed.

50. Comment: The building height differentiation that sets roof washing frequencies should be 45 feet instead of 65 feet. Access to roofs greater than 45 feet requires specialized equipment and techniques.

Response: Staff agrees and the proposed rule language has been modified to reflect the commenter's suggestion.

51. Comment: There is no discussion in the preliminary draft staff report providing the rationale behind a weekly roof washing frequency, and the effectiveness of weekly versus monthly or semi-annual frequency.

and

We recommend that the frequency of roof washing for building heights above 45 feet be conducted on a semi-annual basis rather than a quarterly basis, and should not be required in months having measurable precipitation. Quarterly washing of these elevated surfaces is a hardship providing limited additional benefit beyond a semi-annual that has not been shown to be insufficient.

Response: For roofs that are greater than 45 feet in height, one facility is conducting washes semi-annually while the other conducts them at least monthly. Staff has reviewed 2010 monitoring data for both facilities and has observed that roofs semi-annually cleaning may result in lead concentration spikes at ambient air lead monitors due to an accumulation of lead dust. Therefore, staff believes that a quarterly washing frequency for the higher roofs is necessary to minimize the amount of lead particles that may be accumulated before it is cleaned up. Both facilities are currently conducting roof washings for roofs that are less than 45 feet in height at least monthly and, based on the historical monitoring data, staff believes monthly washings are appropriate. In addition, the rule allows for days of measurable precipitation to count as a washing for compliance.

52. Comment: The proposed definition of MEASURABLE PRECIPITATION may require reprogramming of existing CEMS/DAHS systems to include precipitation data handling. The definition should be modified to included locally recorded & reported measured rain amounts (producing surface run-off) in any 24-hour calendar day.

Response: The definition of MEASURABLE PRECIPITATION has only been proposed to provide facilities the option to use days of rain to count as a cleaning/washing. There is no requirement that the facility demonstrate measurable precipitation readings in order to meet this cleaning/washing exemption. Chapter 2 of this report clarifies that MEASURABLE PRECIPITATION can be demonstrated by using locally recorded and reported measured rain amounts.

53. Comment: Does the housekeeping requirement in subparagraph (h)(1)(C) for cleaning storage areas apply to outdoor storage only?

Response: Pursuant to paragraph (h)(1), cleanings are required in storage areas that are not located within a total enclosure vented to a lead control device.

54. Comment: The timeframe of "immediate cleaning (within one hour)" of surfaces following maintenance activities or process upsets that cause lead deposition on the subject surfaces is completely unworkable, especially for the elevated surfaces greater than 45 feet in elevation. Such cleanup process would require more than one hour to initiate and complete as it is not possible to marshal the necessary lift equipment or resources within one hour. Also, no consideration is given to the fact that such an upset might occur at night. Access to elevated roofs for cleaning is only safe during daylight hours. Realistic timing is about 72 hours or 3 business days.

Response: Staff agrees and the proposed rule language has been modified to reflect the commenter's suggestion.

55. Comment: The inspection, process, handling and storage of incoming batteries are regulated by DTSC. This section is redundant and should be deleted.

Response: Although a similar regulation exists, the purpose for inspection by DTSC relates more to minimizing the release of lead-acid as it hazardous waste. For the purposes of air quality, the provisions are necessary to prevent the generation and release of fugitive lead-dust into the air from damaged lead-acid batteries. Despite this differentiation, rule language has been modified to require action to prevent the generation and release of fugitive lead-dust upon discovery of a cracked or leaking lead-acid battery rather than a general requirement for inspection.

56. Comment: Does the requirement for inspecting batteries in paragraph (h)(3) require every single battery to be inspected? This is really not practical and incredibly difficult to document. Batteries are not really a source of fugitive emission because they are wet with acid and stored inside a battery casing. The U.S. Department of Transportation regulates the transport of batteries and is actively inspecting loads of batteries going into secondary lead smelters throughout the country.

Response: The intent of this provision was to prevent fugitive lead dust emissions by inspecting loads of batteries upon arrival and, if cracked or leaking, send the battery to be processed immediately or properly store it in a sealed container or inside a total enclosure. The language has been clarified to state that "upon receipt, any battery that is cracked or leaking shall be immediately sent to the . . ." See response to Comment #55.

57. Comment: Is paving required for all facility grounds, including areas where trees and plants are located?

Response: The intent of this requirement is to provide surfaces throughout the facility that facilitate the ease of cleaning or vacuum sweeping, and to avoid the chance for fugitive lead-dust to be entrained in large plots of soils, dirt, or other areas difficult to thoroughly clean. The proposed rule has been modified to allow that "…Facility grounds used for plant life that are less than a total surface area of 100 square feet shall not be subject to encapsulation."

58. Comment: The final phrase of the requirement to encapsulate facility grounds that reads "as approved by the Executive Officer," should be struck from this condition as it is redundant and understood. Additionally, it should be made clear that facilities may be allowed to breach pavement or land cover as needed to accomplish maintenance or construction activities.

Response: The language has been clarify that "facility grounds requiring removal of existing pavement, concrete, asphalt or other forms of encapsulation, necessary for maintenance purposes shall not require encapsulation while undergoing work, and shall be re-encapsulated immediately after all required work is completed," and the phrase "as approved by the Executive Officer" has been removed.

59. Comment: The requirement for surface impoundment ponds could be subject to misinterpretation and should be reworded to read "…after the water level falls below 1 inch above the pond…"

Response: Staff agrees with the commenter and language has been revised to read "…after the water level is $\leq$ 1 inch at any point above the bottom of the pond or reservoir."

60. Comment: The retention pond is permitted and operated under the regulatory authority of DTSC. Our facility removes any sludge or sediment that accumulates in the storm water retention pond within 24 hours of accumulation or in as timely a manner as possible following accumulation. There is no precedent for weekly wash downs once the pond has been drained and cleaned.

Response: The purpose of the DTSC regulation for the retention pond is different than the requirements of the proposed rule. The retention pond holds water that

contains lead through storm water runoff and other washdown activities at the facility and the DTSC monitors the concentrations of lead and other hazardous compounds in the water in order to determine if the retention pond is in compliance with regulations for hazardous waste containment. The AQMD's purpose for the sludge cleanup is to prevent the generation of fugitive lead-dust resulting from the evaporation of the lead-laden water of the pond. The weekly washdowns are necessary as the pond's bottom surface is large and subject to deposition of lead dust similar to the paved areas.

61. Comment: The DTSC supports the housekeeping requirement for the surface impoundment ponds.

Response: Staff thanks DTSC for the comment and appreciates their input during working group meetings in order to make sure that the requirements for surface impoundments are consistent with those set forth by DTSC.

62. Comment: Vehicle wet washing should be limited to those vehicles exiting the facility which have traversed the facility areas associated with lead-acid battery recycling. Onsite mobile sweepers and other plant vehicles are washed at wash areas located within containment buildings. Also, the requirement to keep records of all vehicle wet washing is a complete waste of time and effort.

Response: This requirement has been removed from the proposed rule. However, if a facility triggers the requirement for a Compliance Plan, implementation of a vehicle wet wash area may be required as an additional lead reduction measure if deemed necessary.

63. Comment: In the 2009 Order for Abatement for Exide, the AQMD insisted on installation and use of a vehicle wet washing area without providing supporting justification for its necessity, control strategy, or effectiveness.

Response: Vehicle wet washing is an effective measure to reduce track out and is required to be used at Exide based on the Order for Abatement. Vehicle wet washing is used at a variety of facilities to minimize track out. Use of vehicle wet washing at Exide will ensure that potential fugitive emissions that settle on the pavement that are not swept, will not be tracked out of the facility. In addition, if a facility triggers the requirement for a Compliance Plan, implementation of a vehicle wet wash area may be required as an additional lead reduction measure if deemed necessary.

64. Comment: The requirement for sweepings around monitors not to occur on days when sampling is conducted does not take into consideration monitor locations that collect daily samples. The section should also be specific to cleaning and maintenance activities conducted surrounding a monitoring location.

Response: After review, staff determined that the proposed rule language would prevent the cleaning/sweeping of several areas throughout the facility, which was not the intent. The intent was to prevent samples and monitors from being damaged or altered. Therefore, the language has been removed.

MAINTENANCE ACTIVITY

65. Comment: The proposed definition of TURNAROUND/MAINTENANCE is unnecessarily broad and encompassing, extending far beyond the scope of activities reasonably associated with major maintenance typically involved in plant turnarounds. Additionally, it should only apply to building, construction, renovation, resurfacing, ground removal activities, etc. which are associated with lead processing.

Response: Staff agrees that the definition originally proposed was overly encompassing as it did not provide a causal link to lead emissions. Therefore, the definition of MAINTENANCE ACTIVITY has been revised to include only specific activities that generate fugitive lead-dust and that are conducted outside of a total enclosure.

66. Comment: The definition of TURNAROUND/MAINTENANCE requirements are tied to requirements for activities to be conducted in a negative air containment enclosure and notification requirements of four week notice prior to commencement of work. Neither of these requirements is reasonable or feasible given the proposed definition.

and

Proposed notification requirements for turnaround/maintenance activities would place a facility in a state of constantly submitting four-week advance notifications, essentially every day, to cover the unnecessarily broad and encompassing number of activities that would constitute a "turnaround/maintenance activity." The combination of this notification requirement with the other requirements for turnaround/maintenance activity is infeasible and unworkable.

Response: In response to comments received, these requirements have been revised. The definition of TURNAROUND/MAINTENANCE has been replaced with a definition for MAINTENANCE ACTIVITY which has a narrower scope. The requirement to perform maintenance activities in a total enclosure has been expanded to include other options if total enclosure is not possible due to physical constraints, limited accessibility, or safety concerns. The noticing requirements have been changed to notification by telephone at least ten days prior to planned maintenance activities followed by a written notification.

67. Comment: Architectural coating is defined as a turnaround/maintenance activity. Does this mean that painting the building would need to be performed in a negative air environment?

and

In the definition of renovations, could the word "alter" be construed to mean painting?

Response: Architectural coating has been removed from the definition and the definition of renovation has been clarified to say that it pertains to activities that generate fugitive lead dust.

68. Comment: The rule requires complete replacement of certain ductwork sections after a maximum of two "corrosions leaks" or "patch repairs" for which no minimum size or definition is provided. There is no rationale provided for this requirement, and no consideration of the relative environmental benefit to undergoing the process disruption necessary to replace a large ductwork section which may, after patching or repairing a third time, not leak or release emissions to the atmosphere at all.

Response: Staff agrees with the commenter and this requirement has been omitted from the proposed rule and replaced with a requirement to conduct periodic inspections of ducting to ensure structural integrity. In addition, duct replacement is now specified in the definition as one of the maintenance activities which requires notification and must be done in a negative air environment, or of the other options provided in subdivision (i) if that is not feasible, to reduce the potential for fugitive lead dust emissions.

69. Comment: Does the requirement in subparagraph (i)(1)(B) for wet suppression include wet suppression during lifting activities, for example when a crane is lifting ductwork or a tank during rebuild? This is both impractical and unsafe. Please consider a safety exemption or specify that lifting is not subject to wet suppression.

Response: Staff agrees and has added a safety provision for wet suppression or vacuuming *during* maintenance activities. However, the requirement remains the same for *prior to* and *upon completion* of the maintenance activity.

70. Comment: The requirement for specified maintenance activities to occur only on days when instantaneous wind speeds are < 25 mph is arbitrary and impractical. Large maintenance activities must be scheduled and orchestrated well in advance, and to predict ten days in advance what the maximum wind speed will be on a given day is not possible. Additionally, if work has commenced and an instantaneous wind speed spike > 25 mph occurs, the facility would

be subject to a violation of PR 1420.1 for an unforeseeable meteorological event.

Response: Staff agrees with the commenter and the requirement has been modified to require maintenance activity conducted outside a negative containment enclosure to cease if an instantaneous wind speed spike of > 25 mph occurs. This requirement is necessary to prevent fugitive lead-dust from becoming airborne when maintenance activities are being conducted outside of a total enclosure.

71. Comment: The entire reporting provisions are in need of a significant rewrite. This section will likely result in multiple notifications each day for things like feed augers getting stuck, the battery breaker jamming, the burner going off in the furnace, conveyor belts breaking, etc. This is completely impractical and will result in notifications for things that are really routine for mechanical operations. The facilities, public, and the AQMD will be so overwhelmed with notifications that the effect of the notifications for more significant breakdowns will be nullified.

Response: The notification requirements are intended to apply only to those activities that result in lead emissions. The language has been clarified in paragraph (n)(2) to clarify that only unplanned shutdowns of lead control devices are required, notifications to the Executive Officer are only required if the listed activities "result in lead emissions" and notifications to the public for planned construction; renovation; demolition; and resurfacing, repair, or removal of pavement, concrete, or asphalt are only required if the activities take place outside a total enclosure and generate fugitive-lead dust.

72. Comment: Section (n)(2) adds requirements for public notification approved by the Executive Officer and places the burden of the public notification on the facility in spite of the fact that: 1) AQMD is requiring the facility to notify AQMD through the 1-800-CUT-SMOG hotline; 2) Public notifications must be approved by the Executive Officer; 3) SCAQMD maintains an internet site where public notifications can be posted, and 4) SCAQMD has access to the Reverse 911 telephone notification.

Response: In all AQMD rules, public notification requirements are the responsibility of the facility. The facility can satisfy the public notification requirements through a pre-recorded phone message that the public can call into. In addition, the proposed rule allows the facility to suggest other alternative public notification approaches provided they are approved by the Executive Officer.

OTHER COMMENTS

73. Comment: The proposed definition of PERSON should be consistent, such that a PERSON refers to any individual that is differentiated from an ENTITY.

Response: A definition for PERSON has not been included in PR 1420.1 because PERSON is defined in Rule 102 – Definition of Terms.

74. Comment: What is the purpose of maintaining records indicating quantities and lead content of each lead-containing material processed? We already know that these facilities handle and produce a lot of lead. We believe that this recordkeeping requirement has no value.

Response: Rule language regarding this matter has been changed to require "daily records indicating amounts of lead-containing material processed, including, but not limited to, purchase records, usage records, results of analysis, or other District-approved verification to indicate processing amounts." Records of lead-containing material processed are necessary to help verify compliance with furnace charging limits for existing facility permit conditions, and for determining compliance during incidents such as equipment breakdowns and ambient air lead concentration exceedance investigations.

75. Comment: Consider the combination of the facilities funding three monitoring stations, maintained and operated by the AQMD, to be used for compliance, with a requirement to develop a compliance plan supported by proposed projects and modeling (based on the District's monitors) demonstrating how facilities would comply with and maintain the 0.15 ug/m^3 standard.

Response: The AQMD staff believes the compliance plan requirements in the proposed rule provide a necessary safety net. It is necessary to have measures identified that can be implemented immediately in the event of an exceedance of the ambient lead standard. If no exceedance occurs, the facility would not be required to implement measures in the plan. The offer to fund three monitoring stations for determining compliance with PR 1420.1 is generous, however, the AQMD would not be able to locate the monitors at the fence line of the facility which could result in a location which is not at the point of maximum impact of lead emissions from the facility.

76. Comment: How long does the uninterruptible power supply (UPS) need to be capable of supporting operations? Typically UPS can last a couple of hours which would be enough time to bring the plant down safely in the event of a power interruption. However, an earthquake or similar event that causes power to be out for extended periods of time cannot be covered entirely by UPS.

Response: The rule language has been changed to clarify that the uninterruptible power supply is to be used for power outages, and the staff report reflects that it needs to be operational long enough so that equipment and processes can be safely shutdown.

77. Comment: Will previously performed and approved source tests and previously approved protocols comply with paragraphs (k)(2) and (k)(3)? Would source tests from 2009 be acceptable for equipment that is next scheduled to be tested in the first half of 2011?

Response: Yes, previously approved protocols are acceptable and paragraph (k)(11) has been revised to allow the 2009 source tests so long as they are the most recent conducted since January 1, 2009, demonstrate compliance with the lead control device standards, are representative of the control methods currently in use, and the test was conducted using approved methods in the proposed rule.

78. Comment: Please clarify that the provision for new facilities applies to 100% new facilities and not changes/expansions/modifications of existing facilities.

Response: The provision applies to any facility beginning construction or beginning operations on or after the date of adoption of PR 1420.1. Therefore, in addition to totally new facilities, if an existing facility begins new lead battery recycling operations, this provision would apply.

79. Comment: We are concerned that the AQMD is acting arbitrarily since there are significant proposed revisions to the rule language for the set hearing package since its original release at the March 18, 2010 public workshop. The AQMD is requesting comments to be received for the revisions to rule language within one week. This is an unreasonably short timeframe to provide comments especially due to the fact that the Draft Staff Report explaining the changes and rationale has not yet been provided. We suggest that the commenting period be extended until September 10, 2010 in order for our facility to provide comments and suggestions to revise the proposed rule so that it achieves compliance with the federal rule in a cost effective and technologically feasible and reliable manner.

Response: The request for comments to be received from the working group within one week was set in order to allow time for staff to include and address any comments and suggestions that could be included in the set hearing package. The close of comments date established for the set hearing package does not preclude stakeholders and the public from providing comments for the overall rule development. Comments received will be addressed up until the public hearing date for this rule proposal. Additionally, the public will be given the opportunity to make comments at the public hearing. The set hearing package for this rule will be released on August 31, 2010 and will include the draft staff report.